



General Assembly

February Session, 2022

Substitute Bill No. 420



AN ACT CONCERNING THE STATE WORKFORCE AND DISCRIMINATION AND RETALIATION IN THE WORKPLACE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2023*) As used in this section and
2 section 2 of this act:

3 (1) "Manager" means any managerial employee as defined in section
4 5-270 of the general statutes;

5 (2) "Covered employee" means any employee, as defined in section 5-
6 270 of the general statutes, other than a manager;

7 (3) "State employer" means any employer as defined in section 5-270
8 of the general statutes; and

9 (4) "Discrimination" means any adverse action with respect to any
10 employee taken in whole or in part due to the race, color, religious creed,
11 sex, gender identity or expression, marital status, age, national origin,
12 ancestry, status as a veteran, intellectual disability, mental disability,
13 learning disability or physical disability.

14 Sec. 2. (NEW) (*Effective January 1, 2023*) (a) Each state employer shall
15 adopt a zero-tolerance policy for using managerial authority for
16 discrimination or retaliation against those who complain of
17 discrimination. Such policy shall: (1) Specifically forbid any manager

18 from retaliating or discriminating against an employee who complains
19 of discrimination; (2) include performance and other sanctions against
20 managers who dissuade or seek to dissuade employees from filing such
21 complaints; and (3) include performance and other sanctions against
22 managerial authorities who fail to objectively and fully investigate such
23 complaints consistent with identified procedures following an incident,
24 including, but not limited to, notifications to the complainant regarding
25 the status and outcome of the complaint investigation.

26 (b) Each state employer shall ensure that it is safe for employees to
27 formally or informally raise any complaint concerning the use of
28 managerial authority in violation of the provisions of subsection (a) of
29 this section. No state employer shall take or threaten to take any
30 personnel action, or otherwise discriminate against, any employee
31 because such employee has formally or informally raised such
32 complaint.

33 (c) Any state employer who takes any action against a covered
34 employee in violation of this section shall be deemed to have committed
35 a discriminatory employment practice, as defined in section 46a-60 of
36 the general statutes, and to be in violation of section 31-51m of the
37 general statutes. Any employee who brings any action under any of
38 these sections may recover, in addition to all other damages available
39 under such section, treble damages for any employment losses.

40 (d) Discharge or other termination of any employee in violation of
41 this section shall be conclusively presumed to create irreparable harm
42 for purposes of any temporary or permanent injunction action that may
43 be brought to redress such violation, and it shall be irrebuttably
44 presumed that there is not adequate remedy at law. The doctrine of
45 exhaustion of administrative remedies shall not apply in any action to
46 redress a discharge or other termination of employment. Any required
47 initial notice for any action under this section shall include the
48 Connecticut Commission on Human Rights and Opportunities and the
49 commission may intervene as a matter of right in any such proceeding.

50 Sec. 3. (NEW) (*Effective January 1, 2023*) (a) There is established an
51 Office of the Racial Justice Ombudsperson that shall: (1) Establish
52 common working definitions for all key terms and descriptors to lay the
53 foundation for the work; (2) institute a diverse slate initiative that
54 requires Black or African American and Hispanic or Latinx not simply
55 be among those considered, but prioritized for interviews for roles or
56 positions using an external or internal hiring or promotional process
57 that would require the hiring manager, or entity, to screen and interview
58 all candidates using a standard antiracist screening and interview
59 protocol that scores applicant answers; (3) create a structure or
60 mechanism for the delivery of antiracism and bias trainings to all state
61 employees, managers, state vendors and consultants; (4) track
62 participation in such trainings in a manner that facilitates
63 disaggregation of the data by position or title, length of state service and
64 demographic profile; (5) design a culture and climate survey to assess
65 the physical, racial, linguistic and cultural safety of all persons in an
66 agency, and the extent to which each person feels valued and believes
67 the agency's policies and practices are equitable and just; (6) submit a
68 theory of action and plan for making constant progress towards
69 eliminating systemic racism in state government, and implementing
70 strategies and structures to maintain a workplace that (A) affords
71 physical, racial, linguistic and cultural safety, and (B) privileges the
72 ability of all employees to challenge racism and aggressions; (7) assure
73 that all employees get a full and fair hearing of grievances, without fear
74 of retaliation, and ensure fair and racially just outcomes; (8) foster a
75 workplace where managerial authorities are accountable to lead and
76 model antiracist practices and make changes needed to ensure an
77 antiracist, equitable workplace for all; (9) track and review the
78 performance review process and protocols, as well as performance
79 reviews, to identify discrepancies between white workers and black and
80 brown workers in terms of education, time in position, job education
81 provided, opportunities for professional development and growth to
82 immediately create remediation plans to address racial disparities; (10)
83 analyze and recommend solutions to hiring, training and promotion
84 practices which have resulted in ten thousand-dollar-pay differentials

85 between black and white workers; (11) focus on specific and actionable
 86 steps that those with supervisory or managerial authority can
 87 implement within their workplace to eliminate their unconscious or
 88 conscious racial biases; and (12) review complaints and discipline
 89 administered and recommend remediation plans where evidence of
 90 disparate discipline, responses to complaints and manner of
 91 investigation differed by employee race.

92 (b) (1) The Racial Justice Ombudsperson shall (A) be appointed by a
 93 mutual agreement of the State Employees Bargaining Agent Coalition
 94 Racial Justice Committee and the Governor, and (B) be an expert in
 95 matters relating to the history, root causes, manifestations and
 96 persistent effects of racism.

97 (2) The Racial Justice Ombudsperson shall report to a joint committee
 98 consisting of (A) the State Employees Bargaining Agent Coalition Racial
 99 Justice Committee, (B) the Governor, or the Governor's designee, and
 100 (C) the joint standing committee of the General Assembly having
 101 cognizance of matters relating to public employees.

This act shall take effect as follows and shall amend the following sections:

Section 1	January 1, 2023	New section
Sec. 2	January 1, 2023	New section
Sec. 3	January 1, 2023	New section

Statement of Legislative Commissioners:

In Section 2(b), "assure" was changed to "ensure" for accuracy, in Section 2(c), "triple damages" was changed to "treble damages" for accuracy, and in Section 3(a)(7), "assure" was changed to "ensure" for accuracy.

LAB Joint Favorable Subst. -LCO